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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 \_\_\_\_\_ )  
8 KEVIN FERNANDEZ, )  
9 )  
10 Plaintiff, )  
11 vs. )  
12 ISIDRO BACA et al., )  
13 Defendants. )  
14 \_\_\_\_\_ )

3:16-cv-00350-RCJ-WGC

**ORDER**

13 This is a prisoner civil rights complaint under 42 U.S.C. § 1983. Plaintiff has sued thirty-  
14 nine Defendants for various constitutional violations arising out of their having allegedly  
15 poisoned him with psychotropic drugs via his food at Northern Nevada Correctional Center.  
16 Plaintiff has attached a proposed complaint to his application to proceed in forma pauperis.  
17 Because Plaintiff has more than three “strikes” under the Prison Litigation Reform Act, however,  
18 he may not proceed in forma pauperis. *See* 28 U.S.C. § 1915(g).<sup>1</sup>

19 First, in Case No. 3:13-cv-412, Judge Du dismissed Plaintiff’s complaint for failure to  
20 state a claim. Second, in Case No. 3:06-cv-511, Judge Sandoval dismissed the federal causes of  
21 action in Plaintiff’s complaint for failure to state a claim and remanded the state law claims to  
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23 \_\_\_\_\_  
24 <sup>1</sup> Plaintiff does not allege that he “is under imminent danger of serious physical injury.” *See id.*  
The alleged poisonings are alleged to have stopped on January 28, 2015, and Plaintiff alleges  
that he now resides in New Hampshire, far from Defendants.

1 state court. Third and fourth, in Case No. 1:13-cv-94 in the District of North Dakota, Judge  
2 Hovland dismissed Plaintiff's complaint for failure to state a claim, and the Court of Appeals  
3 summarily affirmed under Eighth Circuit Rule 47A(a), which indicates that the Court of Appeals  
4 did not simply perceive no error below but found the appeal to be "frivolous or entirely without  
5 merit."<sup>2</sup>

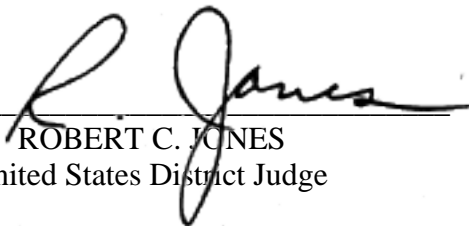
6 **CONCLUSION**

7 IT IS HEREBY ORDERED that the Application for Leave to Proceed in Forma Pauperis  
8 (ECF No. 1) is DENIED.

9 IT IS FURTHER ORDERED that Plaintiff shall have thirty (30) days to pay the filing  
10 fees. Failure to comply may result in dismissal without prejudice without further notice.

11 IT IS SO ORDERED.

12 Dated this 14th day of April, 2017.

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15 ROBERT C. JONES  
16 United States District Judge  
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24 <sup>2</sup> Contrary to the instructions on the Civil Rights Complaint, Plaintiff has listed only the North Dakota case as a "strike."